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GLOBAL IP COUNSELORS, LLP

David Tarnoff

1233 20TH STREET, NW

Suite 600

WASHINGTON, DC 20036-2680

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YASUTSUNE TERASHIMA,
TAKESHI KAKIUCHI, and MASAHIRO ATAKA

Appeal 2015-006559
Application 13/319,931
Technology Center 2800

Before MARK NAGUMO, GEORGE C. BEST, and
MICHAEL G. MCMANUS, *Administrative Patent Judges*.

BEST, *Administrative Patent Judge*.

DECISION ON APPEAL

The Examiner finally rejected claims 1–6, 8–14, and 16–20 of Application 13/319,931 under 35 U.S.C. § 103(a) as obvious and indicated that claims 7 and 15 would be allowable if rewritten in independent form. Final Act. (June 5, 2014). Appellants¹ seek reversal of the rejection of claims 1–6, 8–14, and 16–20 pursuant to 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6.

For the reasons set forth below, we AFFIRM.

¹ Nissan Motor Co. is identified as the real party in interest. Appeal Br. 4.

BACKGROUND

The '931 Application describes a vehicle charging port support structure and arrangement for a vehicle that uses an electric motor as a power source. Spec. ¶ 2. In particular, the charging port support member is located on the front end portion of the vehicle. *Id.* Furthermore, the charging support member includes an energy absorbing structure that, in a front impact collision, deforms toward a support structure of the vehicle front end and into an energy absorbing area that is forward of the support structure. *Id.* ¶ 8.

Claim 1—the only independent claim on appeal—is representative of the '931 Application's claims and is reproduced below from the Claims Appendix in the Appeal Brief:

1. An impact energy absorbing vehicle charging port support arrangement comprising:
 - a vehicle body including a vehicle front end portion;
 - a charging port support member supported on the vehicle front end portion
 - with the charging port support member including an energy absorbing structure that is configured and arranged
 - to deform towards a support structure of the vehicle front end portion and
 - into an energy absorbing area that is disposed forward of the support structure of the vehicle front end portion during a frontal impact; and

an electric charging port attached to the charging port support member, with the electric charging port being configured to receive an electric charging connector.

Appeal Br. 14 (some paragraphing and indentation added).

REJECTIONS

On appeal, the Examiner maintains the following rejections:

1. Claims 1–4, 10–12, and 18 are rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Kuki² and Campbell.³ Final Act. 3.
2. Claims 5, 6, 8, 9, 13, 14, 16, 17, 19, and 20 are rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Kuki, Campbell, and Czopek.⁴ Final Act. 5–6.

DISCUSSION

Appellants argue for patentability of all of the claims on appeal based upon the limitations of claim 1. Appeal Br. 12. We, therefore, limit our discussion to claim 1. Dependent claims 2–6, 8–14, and 16–20 will stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv) (2013).

Kuki describes a connecting system for charging the electric automotive vehicle. Kuki col. 1, ll. 7–9. In particular, Kuki's connection system inserts a primary coil into a receptacle located in the front bumper of an automobile. *See id.* Figs. 1, 4. The receptacle contains a secondary coil

² US 5,850,135, issued December 15, 1998.

³ US 2007/0046042 A1, published March 1, 2007.

⁴ US 2009/0160204 A1, published June 25, 2009.

that can be used to charge the vehicle's battery by electromagnetic induction. *Id.* at col. 9, l. 19–col. 10, l. 44.

Campbell describes an integrated upper fascia support member and bumper energy absorber for an automobile. Campbell ¶ 5. Campbell's integrated member is attached to the vehicle sheet metal and to the structural members of the vehicle. *Id.* ¶¶ 23–24; Fig. 2. As shown in Figures 2A and 2B, Campbell's integrated member includes an energy absorbing structure that is configured to deform toward the support structure and into an energy absorbing area disposed forward of the support structure during a frontal impact. *Id.* ¶ 27, Figs. 2, 2A, 2B; *see also* Figs. 3A, 3B.

As found by the Examiner, at the time of the invention, a person having ordinary skill in the art would have been motivated to use Kuki's electric charging port with Campbell's integrated upper fascia and bumper because Campbell's integrated member helps minimize vehicle damage in the event of an untoward impact event. *See* Final Act. 4 (citing Campbell ¶ 7). Furthermore, Campbell's integrated upper fascia support member and bumper energy absorber provides additional advantages in terms of achieving better fits between components, while controlling cost and increasing production efficiency. Campbell ¶ 4.

In the alternative, at the time of the invention, a person having ordinary skill in the art would have been motivated to incorporate Kuki's electric charging port in Campbell's integrated member to avoid the cumbersome process of having to manually connect a power supply connector to the vehicle in order to charge the battery. *See* Kuki col. 1, ll. 21–40.

Appellants argue that the rejection should be reversed because the modification of Kuki to incorporate Campbell's load isolator is not

physically possible. Appeal Br. 9–10. This argument is not persuasive because “[i]t is well-established that a determination of obviousness based on teachings from multiple references does not require an actual, physical substitution of elements.” *In re Mouttet*, 686 F.3d 1322, 1332 (Fed. Cir. 2012). We agree with the Examiner’s implicit determination that a person having ordinary skill in the art would have been able to use the teachings from Kuki and Campbell to arrive at that and embodiment of the claimed invention using no more than ordinary creativity. *See Perfect Web Techs., Inc. v. InfoUSA, Inc.* 587 F.3d 1324, 1329 (Fed. Cir. 2009) (an analysis of obviousness “may include recourse to logic, judgment, and common sense available to the person of ordinary skill that do not necessarily require explication in any reference or expert opinion”).

Furthermore, Appellants’ argument that Kuki teaches away from using a configuration in which misalignment forces are absorbed by the charging port support member instead of the charging port is not persuasive. Kuki does not criticize, discredit, or otherwise discourage the use of a configuration in which misalignment forces are absorbed by the charging port support member and, thus, does not constitute a teaching away from the claimed invention. *See In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004).

In sum, we are of the opinion that the Examiner correctly found that the combination of Kuki and Campbell describes or suggests each of the limitations recited in claim 1 and concluded that the differences between the claimed invention taken as a whole and the prior art would have been obvious to a person of ordinary skill in the art at the time of the invention.

CONCLUSION

For the reasons set forth above, we affirm the rejection of claims 1–6, 8–14, and 16–20 of the '931 Application.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED